

Message Text

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FM SECSTATE WASHDC
TO AMEMBASSY BUENOS AIRES PRIORITY

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E.O. 11652: N/A

TAGS: EAIR, AR

SUBJECT: CIVAIR - TEXT OF CAB ORDER RESTRICTING AEROLINEAS

1. EXCERPTS FROM TEXT OF SUBJECT ORDER ARE AS FOLLOWS:
2. "... AS THERE EXISTS NO CIVIL AIR TRANSPORT AGREEMENT BETWEEN THE GOVERNMENT OF THE UNITED STATES AND THE GOVT OF ARGENTINA, THE RIGHTS EXCHANGED ARE BASED ON COMITY AND RECIPROCITY.

"THE GOVERNMENT OF ARGENTINA HAS ISSUED VARIOUS LICENSES TO BRANIFF AIRWAYS, INC. AND TO PAN AMERICAN WORLD AIRWAYS, INC. AUTHORIZING SCHEDULED AIR SERVICE BETWEEN SPECIFIED POINTS IN THE UNITED STATES AND BUENOS AIRES, VIA NAMED INTERMEDIATE POINTS. THESE LICENSES SET FORTH THE SPECIFIC FLIGHTS AUTHORIZED, INCLUDING THE EXACT ITINERARY OF EACH FLIGHT, AND THE TYPE OF AIRCRAFT TO BE OPERATED. IF THE
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CARRIER WISHES TO IMPLEMENT ANY CHANGE, IT MUST APPLY FOR A LICENSE AMENDMENT.

ON DECEMBER 13, 1976, THE GOVERNMENT OF ARGENTINA NOTIFIED BRANIFF THAT QUOTAS HAVE BEEN IMPOSED ON ITS CARRIAGE OF TRAFFIC BETWEEN BUENOS AIRES AND SANTIAGO AND BETWEEN BUENOS AIRES AND LA PAZ. FOR THE FIRST SIX MONTHS OF 1977

BRANIFF RECEIVED A QUOTA OF 3,089 PASSENGERS IN BOTH DIRECTIONS ON THE BUENOS AIRES-SANTIAGO SECTOR, AND 1,506 ON THE BUENOS AIRES-LA PAZ, BOLIVIA SECTOR--SOME 70 PERCENT LESS THAN BRANIFF CARRIED DURING A SIMILAR PERIOD IN 1976. THE RESTRICTION WILL, IN EFFECT, REQUIRE BRANIFF SHORTLY TO TERMINATE ITS CARRIAGE OF TRAFFIC FROM THESE POINTS TO ARGENTINA.

"ON DECEMBER 29, 1976, THE GOVERNMENT OF ARGENTINA NOTIFIED BRANIFF THAT IT HAD BEEN FINED FOR HAVING CARRIED SLIGHTLY MORE FIFTH FREEDOM TRAFFIC THAN THIRD AND FOURTH FREEDOM TRAFFIC DURING THE YEAR 1975, AND THEY HAVE INITIATED SIMILAR ACTION FOR 1976.

"BUENOS AIRES LIES AT THE END OF A ROUTE APPROXIMATELY 6,200 MILES LONG. DUE TO THE LENGTH OF THE ROUTE, BRANIFF HAS FOUND IT NECESSARY TO INTEGRATE ITS SERVICE TO BUENOS AIRES WITH ITS SERVICE TO SEVERAL SMALL CITIES ON THE WEST COAST OF SOUTH AMERICA. THEREFORE SOME PASSENGERS ON EACH FLIGHT DEPLANE BEFORE REACHING BUENOS AIRES AND OTHERS ENPLANE AT INTERMEDIATE POINTS EN ROUTE TO THE UNITED STATES. THIS PASSENGER MOVEMENT ENABLES BRANIFF TO ACCOMMODATE SOME LOCAL TRAFFIC TO AND FROM BUENOS AIRES. HOWEVER, DUE TO THE SHORTER DISTANCES BETWEEN THE INTERMEDIATE POINTS AND BUENOS AIRES AND CONSEQUENTLY LOWER FARES, COMPARED TO THE OVERALL LENGTH OF THE UNITED STATES-BUENOS AIRES ROUTE, WHICH IS REFLECTED IN PROPORTIONATELY HIGHER FARES, BRANIFF DERIVED ONLY AN ESTIMATED 30 PERCENT OF ITS LIMITED OFFICIAL USE

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REVENUES FROM SUCH LOCAL TRAFFIC, AN ENTIRELY REASONABLE PROPORTION CONSIDERING THE LENGTH OF THE ROUTE.

"IN ADDITION TO ITS RESTRICTIONS ON BRANIFF, THE ARGENTINE GOVERNMENT HAS ALSO IMPOSED UNREASONABLE RESTRICTIONS ON PAN AMERICAN. IN ORDER TO OPERATE ITS SERVICES MOST EFFICIENTLY, PAN AMERICAN HAS FOUND IT NECESSARY TO CHANGE THE GAUGE OF ITS AIRCRAFT AT POINTS NORTH OF BUENOS AIRES. TO DATE THE ARGENTINE AUTHORITIES HAVE PERMITTED SUCH CHANGES ONLY AT CARACAS AND PANAMA CITY. SINCE THESE CHANGES AVOID CAPACITY INCREASES INTO BUENOS AIRES, REGARDLESS OF WHERE THEY OCCUR, THERE IS NO ECONOMIC REASON FOR DENYING PAN AMERICAN THIS FLEXIBILITY.

"FURTHERMORE, BOTH BRANIFF AND PAN AMERICAN OCCASIONALLY FIND IT NECESSARY TO OMIT OR RESTORE SERVICE AT INTERMEDIATE POINTS. THE GOVERNMENT OF ARGENTINA HAS ON NUMEROUS OCCASIONS DELAYED OR TAKEN NO ACTION ON SUCH APPLICATIONS, AND HAS DENIED OTHERS. IN ADDITION, THE REQUIREMENT OF

THE ARGENTINE AERONAUTICAL AUTHORITIES FOR LICENSING
SPECIFIC ITINERARIES, AND DELAYS IN ACTING ON APPLICATIONS

FOR AMENDMENTS OF SUCH LICENSES, TOGETHER WITH UNCERTAIN-
TIES AS TO WHAT ACTION MAY BE TAKEN, AND ON SEVERAL
OCCASIONS DENIALS, HAVE ADVERSELY AFFECTED THE FLEXIBILITY
OF THE OPERATIONS OF BRANIFF AND PAN AMERICAN.

"THE UNITED STATES GOVERNMENT HAS ON NUMEROUS OCCASIONS
DURING THE PAST THREE MONTHS REQUESTED THE ARGENTINE
AUTHORITIES TO RECONSIDER THEIR DECISION ON THESE ISSUES
PENDING CONSULTATIONS. THUS FAR THE ARGENTINE AUTHORITIES
HAVE DECLINED TO DO SO.

"THE UNITED STATES GOVERNMENT HAS GRANTED AEROLINEAS
ARGENTINAS TRAFFIC RIGHTS TO LOS ANGELES, MIAMI, AND NEW
YORK. DUE TO THE GEOGRAPHIC POSITION OF THESE CITIES AND
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THEIR IMPORTANCE AS JUNCTION POINTS, THE ARGENTINE CARRIER
HAS ACCESS TO THE MAJOR GATEWAYS SERVING THE U.S. MARKET
OF 210 MILLION PERSONS. THE ARGENTINE CARRIER ALSO HOLDS
TRAFFIC RIGHTS BETWEEN THE UNITED STATES AND NUMEROUS
INTERMEDIATE POINTS. THE UNITED STATES CARRIERS HAVE BEEN
GRANTED TRAFFIC RIGHTS TO ONE CITY IN ARGENTINA, BUENOS
AIRES, WHICH GIVES THEM ACCESS TO A MARKET OF APPROXIMATELY
25 MILLION PERSONS. THEY ALSO HOLD TRAFFIC RIGHTS BETWEEN
CERTAIN INTERMEDIATE POINTS AND BUENOS AIRES. HOWEVER,
THE MARKETS BETWEEN THE UNITED STATES AND OTHER COUNTRIES
IN NORTH AND SOUTH AMERICA AND THE CARIBBEAN TO WHICH THE
ARGENTINE CARRIER HAS BEEN GRANTED ACCESS ARE MANY TIMES
LARGER AND MORE VALUABLE THAN THE MARKETS BETWEEN ARGENTINA
AND CERTAIN INTERMEDIATE POINTS TO WHICH THE U.S. CARRIERS
HAVE BEEN GRANTED ACCESS.

"UPON CONSIDERATION OF THESE MATTERS, THE BOARD FINDS THAT
THE GOVERNMENT OF ARGENTINA HAS TAKEN UNILATERAL RESTRIC-
TIVE ACTION AGAINST THE OPERATIONS OF BRANIFF AND PAN
AMERICAN WHICH HAS SIGNIFICANTLY IMPAIRED AND LIMITED THE
OPERATING RIGHTS OF THE U.S. CARRIERS. FURTHERMORE, THE
OPERATING FLEXIBILITY DENIED BRANIFF AND PAN AMERICAN HAS
PREVENTED THE CARRIERS FROM OBTAINING THE BENEFITS OF
OPERATING THEIR ROUTES IN THE MOST EFFICIENT MANNER.

"THESE ACTIONS HAVE UPSET THE FOUNDATION OF RECIPROCITY
UPON WHICH THE RIGHTS GRANTED TO AEROLINEAS ARE BASED. IT
IS, THEREFORE, CONTRARY TO THE PUBLIC INTEREST TO PERMIT
AEROLINEAS TO CONTINUE UNRESTRICTED OPERATION OF ITS SIG-
NIFICANTLY LARGER FIFTH FREEDOM MARKETS TO THE UNITED
STATES, AND TO OPERATE ITS SERVICE WITH UNIMPAIRED FLEXI-

BILITY, WHILE BRANIFF'S FIFTH FREEDOM OPERATIONS TO BUENOS AIRES CONTINUE TO BE SUBSTANTIALLY RESTRICTED AND WHILE BRANIFF AND PAN AMERICAN CONTINUE TO BE DENIED APPROPRIATE FLEXIBILITY IN THEIR OPERATIONS. IN ORDER TO RESTORE THE

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BALANCE OF BENEFITS, THE BOARD FINDS THAT THE PUBLIC INTEREST REQUIRES THAT APPROPRIATE RESTRICTIONS BE PLACED ON AEROLINEAS' TRAFFIC AND OPERATIONAL RIGHTS BETWEEN THE UNITED STATES AND LIMA AND MEXICO CITY. SPECIFICALLY, WE WILL WITHDRAW THE FLEXIBILITY (I.E., THE RIGHTS TO CARRY FIFTH FREEDOM TRAFFIC BETWEEN LIMA AND THE UNITED STATES, AND TO EXERCISE THE FLEXIBILITY OF COMBINING THEIR LIMA SERVICE WITH UNITED STATES SERVICE) WHICH AEROLINEAS NOW EXERCISES BY ITS STOPS AT MEXICO CITY ON ITS LOS ANGELES ROUTE, AND WILL LIMIT THEIR CURRENTLY AUTHORIZED SCHEDULED SERVICE TO LIMA (SIX ROUND-TRIP FLIGHTS PER WEEK) TO TWO WEEKLY ROUND TRIPS. THESE LIMITATIONS WILL RESULT IN A PARTIAL RESTORATION OF THE RECIPROCITY WHICH MUST EXIST, IF AEROLINEAS' OPERATIONS TO THE UNITED STATES ARE TO BE PERMITTED TO CONTINUE.

"THE BOARD WOULD BE WILLING TO RECONSIDER AND POSTPONE ITS ACTION SHOULD THE GOVERNMENTS OF ARGENTINA AND THE UNITED STATES MUTUALLY AGREE TO POSTPONE THE RESTRICTIONS ON THE U.S. CARRIERS BY SUSPENDING THE PROCEEDINGS WITH RESPECT TO BRANIFF'S FREEDOM COMPOSITION, SUSPENDING THE QUOTAS ON BRANIFF'S OPERATIONS BETWEEN SANTIAGO-BUENOS AIRES AND LA PAZ-BUENOS AIRES, GRANTING PAN AMERICAN THE RIGHT TO CHANGE GAUGE AT ANY POINT NORTH OF BUENOS AIRES, AND PERMITTING THE OMISSION OR RESTORATION OF SERVICE TO INTERMEDIATE POINTS BY BOTH CARRIERS, PENDING CONSULTATIONS BETWEEN THE TWO GOVERNMENTS.

"ACCORDINGLY, IT IS ORDERED THAT:

"1. THE SCHEDULES FILED BY AEROLINEAS ON DECEMBER 3, 1976, INsofar AS THEY PROVIDE FOR ANY STOP AT MEXICO CITY TO DEPLANE OR ENPLANE TRAFFIC IN EITHER DIRECTION, AND FOR MORE THAN TWO SCHEDULED FLIGHTS PER WEEK IN EACH DIRECTION BETWEEN THE UNITED STATES AND LIMA, BE, AND THEY HEREBY ARE, DISAPPROVED, AND EFFECTIVE 30 DAYS FROM THE DATE OF LIMITED OFFICIAL USE

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SERVICE OF THIS ORDER, AEROLINEAS SHALL CEASE OPERATING

SUCH SCHEDULES TO THE EXTENT SO DISAPPROVED;

"2. THIS ORDER SHALL BE SUBMITTED TO THE PRESIDENT AND
SHALL BECOME EFFECTIVE ON ;

"3. THIS ORDER SHALL REMAIN IN EFFECT UNTIL FURTHER ORDER
OF THE BOARD; AND

"4. THIS ORDER SHALL BE SERVED ON AEROLINEAS ARGENTINAS
AND THE ABMASSADOR OF ARGENTINA IN WASHINGTON, D. C.

"THIS ORDER WILL BE PUBLISHED IN THE FEDERAL REGISTER."
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